

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
JAN 14 1999

DOCKET FILE COPY ORIGINAL

86-285

OFFICE OF
MANAGING DIRECTOR

James L. Oyster, Esquire
108 Oyster Lane
Castleton, Virginia 22716

Re: Mohawk Valley Broadcasting, Inc.
New Television Station
Ilion, New York
Fee Control # 8906294032947001

Dear Mr. Oyster:

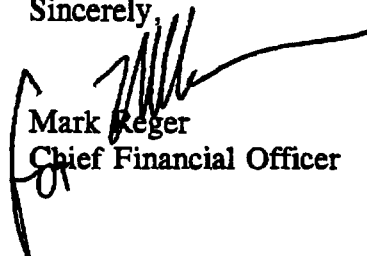
This will respond to your request for refund of the filing fee submitted on behalf of Mohawk Valley Broadcasting, Inc. ("Mohawk") in connection with its construction permit application for a new television station on Channel 67 at Ilion, New York.

You state that subsequent to Mohawk's submission, the Commission reallocated the 746-806 MHz band, which had comprised television channels 60-69, on a primary basis for public safety use. *See Reallocation of Television Channels 60-69, the 746-806 MHz Band, Report and Order*, 12 FCC Rcd 22953 (1998). The Commission's reallocation had been mandated by Congress. *See Balanced Budget Act of 1997*, Pub. L. 105-33, 111 Stat 251 § 3004 (1997). Given that Channel 67 is no longer available, Mohawk has sought a refund of its filing fee.

Section 1.1113(a)(4) of the Commission's rules, 47 C.F.R. § 1.1113(a)(4), provides that an applicant will be eligible for a fee refund where a new rule, law or treaty negates or renders the pending application useless. In adopting this rule, the Commission stated that the section was intended to apply only in those "rare instances" where a statutory or regulatory change would nullify a pending application. *See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Reconciliation Act of 1985*, 2 FCC Rcd 947, 950 (1987), *reconsidered in part*, 3 FCC Rcd 5987, 5988 (1988). Under the circumstances, section 1.1113(a)(4) applies, and refund of the fee payment is warranted.

Accordingly, your request is granted. A check, made payable to the maker of the original check and drawn in the amount of \$2,250.00, will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Chief, Fee Section at (202) 418-1995.

Sincerely,


Mark Reger
Chief Financial Officer

8906294032947001

LAW OFFICES
JAMES L. OYSTER
108 OYSTER LANE
CASTLETON, VIRGINIA 22716
(540) 937-4800
May 6, 1998

FAX (540) 937-2148

pearl@mnsinc.com

Office of the Managing Director
Federal Communications Commission
1919 M Street, N.W., Stop Code 1100
Washington, D.C. 20554

COPY

Attention: Thomas M. Holleran, FCC Rm. 848

Re: Request for Refund of Filing Fee

Gentlemen:

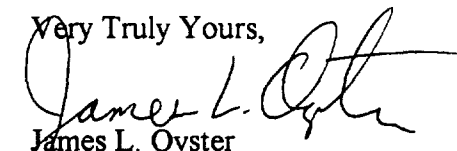
This is to request on behalf of Mohawk Valley Broadcasting, Inc. ("Mohawk"), applicant for a new television broadcast station on Channel 67 at Ilion, NY, tendered for filing on June 28, 1989, that the filing fee submitted with that application in the amount of \$2,250.00, be refunded in accordance with Section 1.1113(a)(4) of the Commission's Rules.

Subsequent to the filing of this application, on August 5, 1997, the Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat 251 (1997), was enacted. It added a new Section 337(a) to the Communications Act requiring that, by January 1, 1998, the Commission must reallocate 24 MHz of the channel 60-69 spectrum for public safety use, and that it reallocate the remaining 36 MHz of that spectrum for commercial use to be assigned by competitive bidding. A Report and Order in ET Docket No. 97-157 completing this reallocation was adopted on December 31, 1997, FCC 97-421, released January 6, 1998. Accordingly, Channel 67 is no longer available at Ilion, NY.

Since the application has been nullified *ex post facto* by the referenced legislation, Section 1.1113 of the Rules applies to mandate a refund of the fee submitted with the application. Attached hereto is documentation regarding payment of the fee, including the application cover letter, canceled check, and copy of the FCC data base listing the application.

Accordingly, the applicant hereby requests a return of its filing fee in the amount of \$2,250.00. The fee should be forwarded to the undersigned as counsel for Mohawk. Should any additional information be desired regarding this matter, please communicate with this office.

Very Truly Yours,


James L. Oyster
Counsel for Mohawk

Mohawk Valley Broadcasting, Inc.
Greenfield Road
Rome, NY 13440
315-476-4963

June 28, 1989

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Application for a new television
station, Ilion, New York

Dear Ms. Searcy,

Transmitted herewith in triplicate on behalf of Mohawk Valley Broadcatsing, Inc. is an application (FCC Form 301) for a new television station on Channel 67 at Ilion, NY.

There is submitted herewith a check payable to the order of the FCC in the amount of \$2,250.00 to cover the filing fee required in connection with this application.


If there are any questions regarding this matter, please do not hesitate to contact the undersigned or our attorney, Mr. James L. Oyster.

Respectfully submitted,



Craig L. Fox
Vice President
Mohawk valley Broadcasting, Inc.

Encs.
cc: Mr. James L. Oyster

CRAIG FOX 1213 MADISON ST. PH. 315-476-6316 SYRACUSE, NY 13210		04032947 <i>06</i>	2348 <i>6/28 89</i>
		50-46/213	
Federal Communications Comm. \$2250.00 <i>Two Thousand Two Hundred Fifty & 00/100</i>			
 CHASE Lincoln First	Chase Lincoln First Bank, N.A. One Lincoln Center Syracuse, N.Y. 13202		
MEMO <i>Shan</i>	<i>Craig L. Fox</i>		
⑆0213004621⑆ 2220056319 ⑆ 2348 ⑆0000225000⑆			

*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

JY '89 05 0213-05001	JUN 03 1989 27-00-0001	ENDORSE HERE X
JY '89 05 JY '89 05 9837000171	FOR CREDIT TO THE U.S. TREASURY L. 27 DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE (RECEIVED FROM A FEDERAL DEPT.)	100-476000-001 100-476000-001

FEMS

CALL LETTERS	ZONE	CAN BORDER	FREQ	POWER	TYPE	STATION NAME
WUTV CO LIC BLCT2015	BUFFALO	ZONE 1	43-01-27.0	29-1260(KW)	280(M)	ACT III BROADCASTING OF BUFFALO, INC
WNYTV CO LIC BLCT870911KM	BUFFALO	ZONE 1	42-46-58.0	49-4900(KW)	376(M)	NIAGARA FRONTIER BROADCASTING P/SHIP
WNYTV CO LIC BLCT2160	CARTHAGE	ZONE 2	43-57-16.0	07-316(KW)	219(M)	UNITED COMMUNICATIONS CORPORATION
WNYTV CO LIC BPCT891619KF	CARTHAGE	ZONE 2	43-57-16.0	07-316(KW)	221(M)	UNITED COMMUNICATIONS CORPORATION
ED	CORNING	ZONE 1	42-08-36.0	30Z		
MYDC CO OF MOD BPCT901108KG	CORNING	ZONE 1	42-02-29.0	48-135(KW)	129(M)	CORNERSTONE TELEVISION, INC.
WETHV CO LIC BLCT2408	ELMIRA	ZONE 1	42-06-20.0	18-166(KW)	372(M)	WETH-TV, INC.
WENYTV CO LIC BLCT1934	ELMIRA	ZONE 1	42-06-20.0	36-468(KW)	320(M)	WENY, INC.
WLIN ED LIC BLCT790131LQ	GARDEN CITY	ZONE 1	40-47-19.0	21-3160(KW)	122(M)	LONG ISLAND EDUC. TV COUNCIL, INC.
ED	GLENS FALLS	ZONE 1	43-18-34.0	58-		
CO	ILION	ZONE 1	42-56-43.0	67-		
NEW CO APP BPCT890629KE	ILION	ZONE 1	42-59-2.0	67-7.08(KW)	137(M)	MOHAWK VALLEY BROADCASTING, INC.

SITE REST. 8.6 MILES SE. EFFECTIVE 6-2-88.

GRID 0 06

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120113

GRID 0 07

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE, CITY, CHAN
FEDERAL COMMUNICATIONS COMMISSION - MASS MEDIA BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

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CO	ITHACA	ZONE 1	42-26-30.0	52Z		
ED	ITHACA	ZONE 1	42-26-32.0	65+		
WTJA CO LIC BLCT880923KX	JAMESTOWN	ZONE 1	42-05-6.0	26+ 661(KW)	182(M)	JAMESTOWN TV ASSOCIATES
WTJA CO OF BPCT890512KF	JAMESTOWN	ZONE 1	42-05-6.0	26+ 457(KW)	182(M)	JAMESTOWN TV ASSOCIATES
ED	JAMESTOWN	ZONE 1	42-05-45.0	46Z		
NEW ED APP BPET900725KG	JAMESTOWN	ZONE 1	42-05-6.0	46Z 64.6(KW)	205(M)	WESTERN NY PUBLIC BROADCASTING ASSN.
WTZA CO LIC BLCT851224KF	KINGSTON	ZONE 1	42-05-6.0	62+ 5000(KW)	591(M)	WTZA-TV ASSOCIATES
ED	LAKE PLACID	ZONE 2	44-17-6.0	34+		
WCBSTV CO LIC BLCT850719KJ	NEW YORK	ZONE 1	40-42-43.0	02Z 21.4(KW)	482(M)	CBS, INC.
WNBC CO LIC BLCT840312KG	NEW YORK	ZONE 1	40-42-43.0	04Z 17.4(KW)	515(M)	NATIONAL BROADCASTING CO., INC.
WNYW CO LIC BLCT800328KE	NEW YORK	ZONE 1	40-42-43.0	05+ 17.4(KW)	515(M)	NEWS AMERICA TELEVISION INCORPORATED
WABC TV CO LIC BLCT800730KG	NEW YORK	ZONE 1	40-42-43.0	64.6(KW)	491(M)	WABC TELEVISION, INC.

WJACTV
BLCT81

WJCP TV
BLCT8.

WPTJ
BLCT8-

WPTJ
BPCT8-

WGAL
BLCT22

WLYHTV
BLCT79

KYMTV
BLCT18

WPVITV
BLCT22

WCAUTV
BLCT21

WHLTV
BLCT261

WTXI
BLCT2285

WYRE
BLCT500C

WGBSTV
BLCT8511

KDKATV
BLCT1982

WYATV
BLCT2358

WPXI
BLCT1721

WQED
BLCT1721

12/13/90

FCC FEE COLLECTION SYSTEM - XFC
WASHINGTON FEES PURGE REPORT
PURGE DATE - 90/12/31

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XFC998-U1

** BASIC RECORD **

FEENUM	RECEIPT DATE	APPLICANT NAME & ADDRESS	BATCH-NO/ BANK-ID	FILE-NO/ CALLSIGN	FEE-CODE/ FEE-AMT/ CURRENT-AMT	RETRIEVE DATE/ REMIT	HA-AGENT/ REMIT-DIFF/ WVR-DEF-SWT
4032946	890629	MY QUE BROADCASTING INC 121 HAYNIE AVE BASTROP LA 71220-0000 USA	90703W7038 907030703805	AX890629MC NEW	MUY \$75.00 \$75.00	000000 C	N N
4032947	890629	MOHAWK VALLEY BROADCASTING INC GREENFIELD RD ROME NY 13440-0000 USA	90703W7038 907030703806	TV890629KE 890629KE	MTN \$2250.00 \$2250.00	000000 C	N Y
4032949	890629	MCCAW RCC COMM OF MIDWEST INC 1250 CONNECTICUT AVE NW WASHINGTON DC 20036-0000 USA	90703W7039 907030703901	300610189 KAA285	CND \$200.00 \$200.00	000000 C	Y Y
4032950	890629	RADIOCALL CORP 1250 CONNECTICUT AVE NW WASHINGTON DC 20036-0000 USA	90703W7039 907030703902	301100189 KUA482	CND \$200.00 \$200.00	000000 C	Y Y
4032951	890629	AIR SIGNAL OF CALIFORNIA INC 1250 CONNECTICUT AVE NW WASH DC 20036-0000 USA	90703W7039 907030703903	300550189 KJU808	CND \$200.00 \$200.00	000000 C	Y Y
4032952	890629	MCCAW PAGING ONE INC 1250 CONNECTICUT AVE NW WASHINGTON DC 20036-0000 USA	90703W7039 907030703904	303450189	CND \$200.00 \$200.00	000000 C	Y Y
4032953	890629	AIR SIGNAL OF CALIFORNIA INC 1250 CONNECTICUT AVE NW WASHINGTON DC 20036-0000 USA	90703W7039 907030703905	294420189 KMM704	CMY \$20.00 \$20.00	000000 C	Y Y
4032954	890629	AIR SIGNAL OF CALIFORNIA INC 1250 CONNECTICUT AVE WASHINGTON DC 20036-0000 USA	90703W7039 907030703906	301600189	CND \$200.00 \$200.00	000000 C	Y Y

032954 890629